

**PUBLIC EMPLOYEES' RETIREMENT BOARD**  
**100 N Park**  
**Helena MT 59620**

**Board Legislative Committee Minutes**  
**Thursday, July 10, 2008**  
**8:30 AM**

Committee Members:      Ray Peck, Chair  
                                 John Paull  
                                 Terry Smith

Staff:                              Roxanne Minnehan, Melanie Symons, Scott Miller, Kim Flatow, Kathy Samson, Barbara Quinn, Ann Reber, Joel Thompson and Angelia Molyneaux, MPERA staff; John Nielsen and Dianna Porter, Board Members.

Other Attendees:              No members of the public present.

**Public Comment** – No public comment.

**Executive Director's Report**

**MPORS DROP Interest Rate**

The current DROP interest rate is based on the annual rate of return (ROR) earned on the trust fund. The member's account is credited with that ROR. If the return is less than zero, the rate is zero. A noted flaw with the current process is the previous year's annual ROR is credited until the next annual ROR is received from the Board of Investments. Last year the rate was 17.89%. This year it will be substantially less. Because we have recently experienced such a high ROR, members are severing their employment and requesting a distribution of their DROP account before we get the FY 2008 ROR. Therefore; they are receiving substantial interest payments despite the fact the market had a poor year. MPERA's tax counsel, ICE Miller has stated that credited interest rates are a topic of concern for the IRS. ICE Miller has stated that the IRS prefers a set interest rate; however, the guidance is unclear at what rate that should be. Staff is suggesting that we consider a fixed rate of return. This would require change to statute and rules.

The PPA states interest rates cannot exceed a market ROR, with market being an index, bond or fixed rate of 3-4%. ROR, are currently being considered in the PPA technical corrections bill.

Motion: Mr. John Paull moved interest rates be obtained quarterly for applying interest to DROP accounts.

Second: Mr. Terry Smith

Vote: 3/0

### **DCRP FLO Distribution**

The Pension Protection Act (PPA) of 2006 allows optional provisions for plan adoption. One optional provision for the DCRP is the distribution of the portion of an account (identified in a Family Law Order) to an ex-spouse while the member continues in service. This provision has been allowed in the 457 plan. Staff recommends the Board allow the same provisions in the DCRP.

Mr. Smith questioned why we would treat this plan differently than the DBRP plan. In the DBRP plan, the FLO distribution is split after the participant retires or refunds. Differences in the DB and DC accounts make it easier to split a DC account and not a DB account. The ex-spouse is no longer a beneficiary of the plan and allowing them to continue is a cost to the plan and a liability that the Board doesn't want. The ex-spouse does not have to take a lump-sum distribution but may roll-over the distribution to their retirement account.

Motion: Mr. Terry Smith moved to allow the DCRP FLO Distribution to an ex-spouse while the member continues inservice.

Second: Mr. John Paull

Vote: 3/0

### **SAVA Meeting Report**

SAVA held a meeting June 30, 2008. SAVA's agenda included agency proposed legislation. SAVA listened to MPERA's proposals: 1.) Qualification Bill; 2.) Employer Contributions for Working Retirees; and 3.) General Revision Bill. If SAVA didn't like a piece of the proposal, they were separating it from the portion with which they agreed. They didn't like the working retiree employer contributions proposal. Rep. Ingraham moved to take this out of their vote. SAVA passed the qualifications and general revisions bills. Sen Gebhardt then moved to proceed with the working retiree proposal and it passed.

Mr. David Ewer presented the Governor's proposal to eliminate the trigger on the increase of employer contributions. To address the funding issue, last session the employer contribution rates were increased in increments over the next two biennia. The trigger would eliminate the increases, returning to the original rate once the unfunded

liability amortized within 25 years or less. The Budget Office wants to eliminate the trigger and SAVA passed this proposal.

Mr. Ewer also offered to provide draft fiscal notes for retirement bills. Mr. Senn and Ms. Minnehan testified that the fiscal draft notes are prepared by MPERA and TRS after receiving impact statements from our actuaries. There is a cost to obtain actuarial input, borne by the retirement systems. The committee voted to accept Mr. Ewer's offer.

The pension fiscal note has a box to check that the bill has been reviewed by SAVA. SAVA discussed and determined that "reviewed" was not descriptive enough. A SAVA "recommends/does not recommend" box was discussed.

Sen. MacLaren's proposal to freeze the DBRP for new hires was discussed. He stated his reason for bringing the proposal forward was that SAVA hasn't come forth with anything as required by HJR 59. Why not look at requiring new employees to enter the DC plan? There was some discussion about leaving the plans alone. The proposal died due to a lack of a motion.

### **Board Proposed Legislation**

Ms. Minnehan highlighted some changes included in the tables for the qualifications bill and general revisions bill. Ms. Minnehan asked if the Committee had any other questions on the tables. The Committee had no questions.

### **Other Issues Relating to Retirement Proposals**

1. Normal Retirement Age (NRA) has been required by the PPA. National Retirement organizations have joined together requesting the IRS consider why this is difficult for some plans. For example, in MPERA's public safety plans, retirement eligibility is based on years of service. The Committee discussed what NRA would be used for: disability conversions and if allowed, in-service distributions. MPERA plans do not allow in-service distributions – this would conflict with our working retiree bill.
2. The Board was informed that the current PPA technical corrections bill did not address the \$3,000 tax exclusion for self paid insurance premiums for public safety retirees.
3. The Board was also informed of a provision from the Heroes Earning Assistance and Relief Tax (HEART) Act of 2008. The provision requires death benefits under USERRA qualified military service. The plan must treat the member as having died during covered employment with the pension plan.

### **Next Meeting**

A meeting will be scheduled before the September 11, 2008 PERB meeting. This can be cancelled if it is not necessary. It was discussed to schedule a meeting after the next SAVA meeting, September 15, 2008, and again after November elections to select sponsors for MPERA bills.

**Meeting adjourned 10:00 AM by Mr. Ray Peck, Chairman.**